

to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

NOMINATION OF DR. HENRY FOSTER

Mr. LEVIN. Mr. President, we debated today whether a minority of members of the Senate will permit Dr. Henry Foster a vote on the confirmation of his nomination.

Dr. Foster is qualified to be Surgeon General of the United States. His 38-year career as a physician has reflected his concern for the medically underserved in our society and most clearly for young people. He has delivered more than 10,000 babies and trained hundreds of young doctors.

Unfortunately, his nomination has become a pawn in the game of Presidential politics. Apparently, some of our colleagues see an advantage in the Republican Presidential nominating process to using the issue of abortion as a rallying cry to frustrate the confirmation process. If a bipartisan majority of the U.S. Senate is prepared to vote to confirm the President's appointment, that vote should occur and Dr. Foster should be Surgeon General.

Pure and simple, the excuse for denying a vote to Dr. Foster is that he has performed a legal medical procedure on behalf of a tiny percentage of his patients.

Some of my colleagues in the Senate oppose a woman's right to choose on abortion, and that is their right. As lawmakers, they have the right to try to regulate it within constitutional limits and indeed, through the route of a constitutional amendment, they may even try to prohibit it. We have debated, and I'm sure we will again, debate that issue in this Chamber.

However, we should not try to turn Dr. Foster's nomination into that debate, because doing so is neither fair to the nominee, nor wise for the Nation.

I think Dr. Foster's views on abortion echo that of the vast majority of Americans. Abortion should be safe, legal, and rare. Now that last word rare is important. It's a word many people use when they talk about abortion, but Dr. Foster hasn't just talked about making abortion rare—he has done something about it.

Dr. Foster's I Have a Future program in Tennessee is considered an effective approach to teen pregnancy prevention. Indeed President Bush considered Dr. Foster's program one of his Thousand Points of Light, an outstanding example of Americans taking their own initiatives to make our country healthier and stronger. In this program, Dr. Foster has focused on helping young people develop confidence and self-esteem, because he knows that the teenager who can say "I have a future" is the teenager who can say "I don't want to give up that future by having a baby."

The qualities of leadership and vision Dr. Foster demonstrated in creating this program will make him a fine Surgeon General.

I was moved by Dr. Foster's testimony before the Labor and Human Resources committee and paid a visit in my State to a program that shares many of the goals he has achieved in his I Have A Future program.

At Detroit's Northern High School, the Michigan Metro Girl Scout Council, with support from the W.K. Kellogg Foundation, has developed the Jayhawk Teen Center. The center provides young people with a safe, clean, and attractive place to come after school. It's a place to play a game of checkers' or a game of pool or to use a computer to log onto the Internet. It's also a place where young people learn how to resolve conflicts without violence, how to avoid the dead end street of substance abuse, and how to practice sexual responsibility. A team of four student managers runs this center, and I wish you could see the pride on their faces when they describe the difference it's made in their lives and the lives of their fellow student. Here too, young people are realizing they have a future.

When I met with these students, I told them about Dr. Foster, the work he had done and why I thought he would make an even greater contribution to our country as Surgeon General. But I also told them it was possible his nomination would not even be allowed to come up for a vote. They were puzzled by that. They couldn't understand how a good man, a man who had done all Dr. Foster has done, could be denied that opportunity. And, I do not think the American people will understand it either. They won't understand why Presidential politicking should prevent us from considering the nomination of a physician so qualified for this position.

Mr. President, I voted to invoke cloture on the nomination. The President is entitled to his nominee, if a majority of the Senate consent. We should have that vote and find out.

NOMINATION OF DR. HENRY W. FOSTER

Mr. KENNEDY. Mr. President, I strongly support the nomination of Dr. Henry Foster to be Surgeon General of the United States. Earlier today, the Senate narrowly rejected an attempt to cut off the unconscionable filibuster being waged against him. I want to take this opportunity to review the case in more detail for Dr. Foster.

Dr. Foster is a distinguished physician who has dedicated his career to improving the quality of health care for women and children. Throughout his 38-year career in medicine, he has had a substantial influence on the quality of health care through his own practice, his teaching, and his community leadership.

His outstanding record as a physician, community leader, medical edu-

cator, and public servant make him superbly qualified for this important position.

I am pleased that we have made it this far in the nomination process, and that we are on the road to bringing this nomination up for a final vote. But opponents to this nomination are intent on a filibuster, and we must invoke cloture in order to get the nomination to a vote. Those who believe that this nomination deserves a vote must vote for cloture to make that happen.

Cloture is only the first step on the road to fairness. The second step—the step that counts—is the up or down vote on the nomination by the entire Senate.

Throughout this nomination process, several Republicans have stated that, in fairness, the nomination should go before the entire Senate for a final vote. Some Members have suggested that by allowing a cloture vote, the majority leader will be giving the nomination the fair consideration it deserves. They have suggested that a vote on cloture is the same as a vote on the nomination. Obviously, that is wrong and misleading.

Senators who feel strongly about the issue of fairness should vote for cloture, even if they intend to vote against the nomination itself. It is wrong to filibuster this nomination, and Senators who believe in fairness will not let a minority of the Senate deny Dr. Foster his vote by the entire Senate.

We do a disservice to Dr. Foster, the Senate and the Nation as a whole by prolonging this process. The Nation has now been without a Surgeon General for 6 months, and there is no justification for further delay.

Dr. Foster has demonstrated his impressive qualifications, his character, and his vision for the future of health care in this country. During the committee hearings, he successfully put to rest the charges attacking his character and his ability. He earned the admiration and respect of the committee and the American public.

Dr. Foster has developed innovative and effective approaches to some of the most difficult medical and social challenges facing communities across the Nation today. He began his unselfish crusade early in his career, and at every stage, he has been an inspiring example of personal sacrifice and service to others.

During the Labor Committee hearings, Dr. Foster ran the gauntlet of the committee and emerged with flying colors. With real and very moving eloquence, he described his background, his career, and his vision for the future of health care in America.

In doing so, he demonstrated his impressive qualifications for Surgeon General, and successfully dismantled all of the objections raised against him. Dr. Foster had the opportunity to make his case, and he did so very well.

He developed a model prenatal care program to improve health care for expectant mothers and their babies. He